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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,878	02/05/2004	Philip W. Wyers	2030	7410

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EXAMINER

GALL, LLOYD A

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/773,878

Applicant(s)

WYERS, PHILIP W.

Examiner

Lloyd A. Gall

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

At the outset, applicant, applicant should clarify that in the amendments to the specification filed on May 23, 2005, it is the first full paragraph of page 11 which is being amended, and in line 5 of the second full paragraph of page 12, "9" should be replaced with --10--.

Claim 14 is objected to because of the following informalities: In claim 14, line 2, "member" should be replaced with --portion--. Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 10, 12-15, 18-21, 24, 30, 31 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Wyers (832).

Wyers teaches in figs. 3-11, a hitch pin shackle having a shank 24, a stop portion 26 of a frustum shape, a latch portion 121, 122, an outer surface margin 124, 126 which is sealed by O-ring seal 66, a locking head 78, 90, 100 having a locking mechanism (key plug) therein, the locking head having an entryway 102 within portion 100 to mate with the latch portion, the locking mechanism being key controlled between locked and unlocked states which allows the latch portion to be retained or released, a head cover skirt 42 to engage the locking head 78, 90, 100, and a flange having the O-ring seal 66

Art Unit: 3676

located within a groove thereof to seal the outer surface margin 124, 126. The head cover 42 also has a cap member 58 which may be regarded as being formed "integrally" therewith. The hitch pin is used with a hitch bar 15 and hitch receiver 14 having aligned holes as seen in fig. 2.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyers (832) in view of Freck.

Freck teaches an O-ring 10 of a resilient material (column 3, line 28). It would have been obvious to form the O-ring of Wyers of a resilient material, in view of the teaching of Freck, the motivation being to optimize its sealing capability.

Claims 16, 26-28 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyers (832) in view of Chen (086).

Chen teaches a two-flanged stop portion cover 413 over a stop portion 41. It would have been obvious to provide a cover over the stop portion 26 of Wyers, in view of the teaching of Chen, the motivation being to protect the stop portion from the elements.

Claims 17 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyers in view of Chen as applied to claims 16 and 34 above, and further in view of Hampton et al (100).

Art Unit: 3676

Hampton teaches a cover 44 of a resilient material (column 3, line 33) having at least some degree of stiffness. It would have been obvious to form the stop portion cover of Wyers as modified by Chen of a stiff, resilient material, in view of the teaching of Hampton et al, the motivation being to optimize its strength and sealing capabilities.

Claims 1, 2, 5-15, 18, 19, 21-25 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapushek (407) in view of Heald or Hampton et al. Zapushek teaches a hitch pin including a shackle 25, a cylinder stop portion 15, a latch portion 30, 35, an outer surface margin being engaged and sealed in fig. 4 where it is contacted by the seal 120, a cylindrical locking head 20 having an entryway where the seal 120 is located, and a key-operable locking mechanism 80, 50, 100 therein to engage the latch portion 30. Heald teaches a stiff yet resilient locking head cover 30, 58 disposed over a key-operated lock and including a flanged seal 76 as seen in figs. 8 and 9 to seal an outer surface margin of a shackle. Hampton teaches a stiff yet resilient locking head cover 22, 26 over a shackle lock, including a seal 32 or 34N in fig. 6 which seals the outer surface margin of the shackle. It would have been obvious to provide an outer, flanged locking head cover over the locking head 20 of Zapushek, in addition to, or in place of the seal 125 of Zapushek, in view of the teaching of Heald or Hampton et al, the motivation being to protect the entire outer periphery of the locking head, as well as to seal the outer surface margin of the shackle of Zapushek. With respect to claims 9-11, 23-25 and 33, figure 6 of Hampton teaches a truncated portion 38 of the edge margin 54, and a groove 38 to receive an O-ring 34N therein. In addition, with respect to independent claim 30, it would have been obvious to use the hitch pin of Zapushek

Art Unit: 3676

with a hitch bar and receiver having aligned openings, in view of the admitted prior art of the preamble of claim 30.

Claims 3, 4 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapushek in view of Heald or Hampton et al as applied to claims 2 and 19 above, and further in view of Chen (316).

Chen teaches a cap 16, 18 integral with a member 11. It would have been obvious to provide an integral cap with the locking head cover of Zapushek in view of Heald or Hampton et al, in view of the teaching of Chen (316), the motivation being to seal the key slot of the locking head.

Claims 16, 26-28 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapushek in view of Heald or Hampton et al as applied to claims 1, 18 and 30 above, and further in view of Chen (086).

Chen teaches a two-flanged stop portion cover 413 over a stop portion 41. It would have been obvious to provide a cover over the stop of Zapushek, in view of the teaching of Chen, the motivation being to protect the stop from the elements.

Claims 17, 29 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapushek in view of Heald or Hampton and Chen as applied to claims 16, 28 and 34 above, and further in view of an additional teaching of Hampton.

Hampton teaches a stiff yet resilient material, as set forth above. It would have been obvious to form the stop portion cover and locking head cover of the modified Zapushek reference of stiff, yet resilient material, in view of the teaching of Hampton et al, the motivation being to optimize their strength and sealing capabilities.


Applicant's arguments with respect to claims 1-35 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lloyd A. Gall whose telephone number is 571-272-7056. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LG LG
August 05, 2005


Lloyd A. Gall
Primary Examiner